

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE LEASE AMENDMENT	LEASE AMENDMENT No. 1 TO LEASE NO. GS-09P-LCA03085
ADDRESS OF PREMISES: Creekside Business Park 11661 Blocker Dr., Bldg. A Auburn, CA 95603	PDN Number:

THIS AMENDMENT is made and entered into between **Auburn Creekside Bldg A & E LLC**

whose address is: **200 Auburn Folsom Rd., Suite 305, Auburn, CA 95603**

hereinafter called the "**Lessor**", and the **UNITED STATES OF AMERICA**, hereinafter called the **Government**:

WHEREAS, the parties desire to amend the above Lease in order to establish beneficial occupancy on 8/1/2015.

NOW THEREFORE, these parties for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree that the said Lease is amended, effective upon execution by the Government as follows:

Lease term paragraph is amended as follows. Paragraph 1.03 is hereby deleted in its entirety and the following substituted therefore. Paragraphs 1.12 and 1.13 are hereby added.

-----Continued on Page 2-----

This Lease Amendment contains 4 pages.

All other terms and conditions of the lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties subscribed their names as of the below date.

FOR THE

Signature: _____
Name: _____
Title: MANAGER
Entity Name: Auburn Creekside Bldg A & E LLC
Date: 7/9/2015

FOR THE GOV

Signature: _____
Name: _____
Title: Lease Contracting Officer
Entity Name: GSA, Public Buildings Service,
Date: 8/1/15


WITNESSED FOR THE LESSOR BY:

Signature: _____
Name: _____
Title: _____
Date: _____

LEASE TERM

To Have and To Hold the said Premises with its appurtenances for the term beginning upon 8/1/2015 and continuing for a period of

10 Years, 7 Years Firm,

subject to termination and renewal rights as may be hereinafter set forth. ~~The commencement date of this lease, along with any applicable termination and renewal rights, shall be more specifically set forth in a Lease Amendment upon substantial completion and acceptance of the Space by the Government.~~ (PA) 

1.03 RENT AND OTHER CONSIDERATION

A. The Government shall pay the Lessor annual rent, payable in monthly installments in arrears, at the following rates:

	Shell Rent per Rsf/Yr	Operating Expenses per Rsf/Yr	Tenant Improvements per RSF/Yr	Total Annual Rent per Rsf/Yr	Total Annual Rent
8/1/2015	\$15.27	\$4.03	\$10.71	\$30.00	\$129,946.42
8/1/2016	\$15.27	\$4.15	\$10.71	\$30.12	\$130,470.04
8/1/2017	\$15.27	\$4.28	\$10.71	\$30.25	\$131,009.36
8/1/2018	\$15.27	\$4.40	\$10.71	\$30.38	\$131,564.87
8/1/2019	\$15.27	\$4.54	\$10.71	\$30.51	\$132,137.04
8/1/2020	\$17.11	\$4.67	\$0.00	\$21.78	\$94,336.98
8/1/2021	\$17.11	\$4.81	\$0.00	\$21.92	\$94,944.00
8/1/2022	\$17.11	\$4.96	\$0.00	\$22.07	\$95,569.22
8/1/2023	\$17.11	\$5.11	\$0.00	\$22.22	\$96,213.21
8/1/2024	\$17.11	\$5.26	\$0.00	\$22.37	\$96,876.51

1.12 REAL ESTATE TAX ADJUSTMENT

(a) For the purpose of this Tax Adjustment clause:

- (1) The term "Base Year" shall mean the first Tax Year for which a Full Assessment of the completed project is in effect for the entire Tax Year.
- (2) The term "Real Estate Tax Base" means the Real Estate Taxes paid for the Base Year. If an Improvement (other than an Improvement which results in a change of Base Year) or a Change in Ownership occurring during the Base Year is not fully reflected in Real Estate Taxes for the entire Base Year, the Real Estate Tax Base shall be adjusted as follows: Real Estate Tax Base shall be increased by the amount of additional Real Estate Taxes which would have been paid for the Base Year if the Improvement or Change in Ownership had been fully reflected in the Real Estate Taxes for the entire Base Year.
- (3) The term "Change in Ownership" has the same definition as in California Revenue and Taxation Code, Part 0.5, Chapter 2, as amended or replaced from time to time.
- (4) The term "Current Year Taxes" means Real Estate Taxes paid for each Tax Year following the Base Year, excluding increases in Real Estate Taxes (whether the increases result from increased rate and/or valuation) attributable to any Improvement or Change in Ownership which occurs or is completed after the Base Year.
- (5) The term "Full Assessment" means that the taxing jurisdiction has considered all contemplated Improvements to the assessed property in the valuation of the same. Partial assessments for New Construction will not be used for establishing the Base Year.
- (6) The term "Improvement" means any addition, alteration or improvement to real property, excluding however construction which (i) is performed by or at the request of the

Government, (ii) is for the sole benefit of the Government, and (iii) is not required to make the property ready for occupancy by the Government in accordance with the terms of the lease or otherwise required by the lease.

(7) The term "New Construction" has the same definition as in California Revenue and Taxation Code Section 70, as amended or replaced from time to time, which includes, without limitation, major rehabilitation and change in use.

(8) The term "Real Estate Taxes" means only ad valorem taxes which are assessed against the building and/or the land upon which the building is located, without regard to benefit to the property, for the purpose of funding general government services. "Real estate taxes" shall not include, without limitation, penalties for nonpayment or delay in payment, special assessments, business improvement district assessments, or any other present or future taxes or governmental charges that are imposed upon Lessor or assessed against the Building and/or the land upon which the building is located.



(9) The term "Tax Year" means the fiscal year used by the state of California for real estate taxes: July 1 through June 30.

(b) The Lessor shall furnish the LCO with copies of all notices which may affect the valuation of said land and buildings for Real Estate Taxes thereon, as well as all notices of a tax refund, deduction or credit, all tax bills and all paid tax receipts, or where tax receipts are not given, other similar evidence of payment acceptable to the LCO (hereinafter, evidence of payment), and a proper invoice (as described in the Prompt Payment clause of this lease, GSAR 552.232-71) of the tax adjustment including the calculation thereof, for each Tax Year. Lessor warrants the accuracy and completeness of any invoices submitted. Notices which may affect valuation and notices of a tax refund, deduction or credit are due within ten (10) business days of receipt. All other documentation shall be submitted by June 15 of each Tax Year. Failure to submit the proper invoice and evidence of payment within such time frame shall be a waiver of the right to receive payment resulting from an increased tax adjustment under this clause.

(c) The Government shall make a single annual lump sum payment to the Lessor for its share of any increase in Current Year Taxes during the lease term over Base Year Taxes, or receive a rental credit or lump sum payment for its share of any decreases in Current Year Taxes during the lease term below the Base Year Taxes. The amount of lump sum payment or rental credit shall be based upon evidence of valuation and payment submitted by the Lessor to the LCO in accordance with paragraph (b).

(1) In the event of an increase in Current Year Taxes over the Real Estate Tax Base, the Lessor shall submit a proper invoice of the tax adjustment including the calculation thereof together with all tax bills and evidence of payment to the LCO. The Government shall be responsible for payment of any tax increase over the Real Estate Tax Base only if the proper invoice and evidence of payment is submitted by the Lessor on or before June 15 of the current year. The due date for making payment shall be the thirtieth (30th) calendar day after receipt of evidence of payment and all other required documentation by the LCO or the end of the Tax Year, whichever is later. No increase will be paid, due, or owing unless all evidence of valuation and payment have been previously submitted to the LCO.

(2) In the event of a decrease in Current Year Taxes from the Real Estate Tax Base, or in the event of any refund or tax deduction, the Lessor shall notify the LCO in accordance with paragraph (b) of this clause. The Government shall be entitled to and shall receive a credit for the prorata reduction in Real Estate Taxes, regardless of whether the Government has made a tax adjustment payment for that Tax Year. The Government's share of the credit will be determined in accordance with paragraph (d) of this clause and shall be taken as a deduction from the rent. Any credit due the Government after the expiration or earlier termination of the Lease (including but not limited to credits resulting from a decrease in Real Estate Taxes pursuant to a tax credit due the Lessor; a reduction in the tax assessment; or a tax appeal proceeding for a Tax Year of the Lease, or portion thereof) shall be made by a lump sum payment to the Government or as a rental credit to any succeeding lease as determined by the LCO. Lessor shall remit to the Government any lump sum payment resulting from a tax refund within fifteen (15) calendar days after payment by the taxing authority to Lessor or Lessor's designee. Lessor shall remit any other lump sum payment to Government by June 15 of the Tax Year during which the lease year terminates. If the credit due to the Government is not paid by the due date, interest shall accrue on the late payment at the rate established by the Secretary of the Treasury under Section 12 of the Contract

INITIALS:  & 
LESSOR & GOVT.

Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. The interest penalty shall accrue daily on the amount of the credit and be compounded in thirty (30) day increments inclusive from the first day after the due date through the payment date. The Government shall have the right to pursue the outstanding balance of any tax credit using all such collection methods as are available to the United States to collect debts. Such collection rights shall survive the expiration of this lease.

(d) The Government shall pay its share of tax increases or receive its share of any tax decrease based on the ratio of the rentable square feet occupied by the Government to the total rentable square feet in the building or complex ("percentage of occupancy"). This percentage shall be subject to adjustment to take into account additions or reductions of the amount of space as may be contemplated in this lease or amendments hereto. If the lease terminates before the end of a Tax Year, payment for the tax increase due as a result of this Tax Adjustment clause for the Tax Year will be prorated based on the number of days the Government occupied the space.

(e) The Government may direct the Lessor upon reasonable notice to initiate a tax appeal or the Government may decide to contest the tax assessment on behalf of the Government and the Lessor or for the Government alone. The Lessor shall furnish to the Government information necessary for appeal of the tax assessment in accordance with the filing requirements of the taxing authority. If the Government decides to contest the tax assessment on its own behalf or on behalf of the Government and the Lessor, the Lessor shall cooperate and use all reasonable efforts including but not limited to affirming the accuracy of the documents, executing documents required for any legal proceeding and taking such other actions as may be required. If the Lessor initiates an appeal on behalf of the Government, the Lessor shall be entitled to deduct the reasonable costs of the appeal from any resulting savings before allocation of the savings in accordance with paragraph (d) of this clause.

1.13 PERCENTAGE OF OCCUPANCY FOR TAX ADJUSTMENT (JUN 2012)

As of the Lease Award Date, the Government's Percentage of Occupancy, as defined in the "Real Estate Tax Adjustment" paragraph of this Lease is 22.82 percent. The Percentage of Occupancy is derived by dividing the total Government Space of 4,331 RSF by the total Building space of 18,980 RSF.